

**Fishing Wars and Act 31:  
Using Education to End the Conflict Over Treaty Rights**

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“Spear an Indian save a walleye” was a common phrase being shouted at Wisconsin Ojibwe from 1985-1993. This was the start of the Great Fishing Wars in Wisconsin. As Ojibwe people, they had maintained the right to hunt, fish, and gather off of their reservations. The Treaties of La Pointe in 1842 and the Treaty of St. Peters (also known as the White Pine Treaty) in 1837 helped protect this necessity for the Ojibwe. But for many years it went unused due to being forced to stay on the reservations that were created by the United States government. It was not until Fred and Mike Tribble, brothers from the Lac Courte Oreilles Ojibwe Nation, fished off the reservation in 1974 that these rights were brought to the forefront once again. The brothers were arrested; they fought the charges in court, and the Federal court honored the treaties in 1978. This is the decision that set off the Fishing Wars and led to the creation of the Great Lakes Indian Fish and Wildlife Commission in Wisconsin. The widespread ignorance of non-Native people regarding this issue highlighted the need for education. Act 31 helps pursue the education of these issues and gives a better understanding of Native culture and history in Wisconsin.

The Ojibwe people have been in Wisconsin since 1500 BP, and around 1634 Europeans arrived in Wisconsin (U.S Department of Legislation 10). The Ojibwe people called white settlers Chimokamans, which means “people of the Big Knife.” The French started to marry into the Ojibwe tribes, and they lived peacefully together. The government then acquired the land through two different treaties: Treaty of La Pointe and St. Peter’s, which started to force the Ojibwe people onto reservations. But the state did not enforce this until 1854.

The Ojibwe and the United States government signed the Treaty of La Pointe 1842 and the Treaty of St. Peters 1837 before Wisconsin became a state. There were no state regulations for hunting, fishing, and gathering at the time the treaties were signed because Wisconsin did not become a state until 1848. The St. Peters Treaty of 1837 article 5 states that “The privilege of hunting, fishing, and gathering of wild rice upon the lands, rivers, and lakes included in the ceded territory is guaranteed to the Indians during the pleasure of the United States” (Erickson 29). The Treaty of La Pointe 1842 article 2 states that “The Indians stipulate for the right of hunting on the ceded territory with the other usual privileges of occupancy until required to remove by the president of the United States and that the laws of the United States shall be continued in force in respect to their ‘trade’ and intercourse with the whites until otherwise ordered by Congress” (Erickson 30). After these treaties were signed, most Ojibwe people were forced to stay on the reservations and were shot and killed if they left. They had to hunt, fish, and gather on their reservations, and often there were not many resources for the Ojibwe people on the reservation. The dangers of this is why they did not use or have the state acknowledge these rights until the Tribble brothers fought to regain them.

Fred and Mike Tribble, members of the Lac Courte Oreilles (LCO) Ojibwe tribe located near Hayward, Wisconsin, had read those exact sections of the Treaty of La Pointe and the St. Peters Treaty in 1974 in a law class they were taking at the College of St. Scholastica (Leary 20). They found out that the Wisconsin Ojibwe still had the right to hunt, fish, and gather on ceded lands. The Ojibwe had never lost these rights; they just did not remember they had them, as it had been so long since anyone had

actually exercised these rights. On March 8, 1974 (Leary 21), Fred and Mike headed out on Chief's lake and started spearfishing traditionally until the game wardens stopped them, asking them to show their fishing licenses; instead, the brothers showed them copies of the treaties they had in their pockets. They were ticketed and arrested instead. In 1978, they went to court, with attorneys from the LCO tribe, and the case was bounced around in the Wisconsin state courts. It was then sent to the federal courts until the federal court sided with the Ojibwe tribes and honored the treaties. Fred and Mike Tribble were successful because the treaty was signed by the federal government, and no state can override federal laws. Even though they won the case and protected the rights of the Ojibwe, there was still backlash from the non-native people in that area and across the nation.

The protest era, also known as the Great Fishing Wars, happened mainly from 1983 to 1991 when Ojibwe people started spearfishing off the reservation again. A lot of these protests became violent physically and verbally due to the non-Natives who were upset and ignorant as to what was going on. The non-Natives thought these hunting and fishing rights were being arbitrarily given to the Ojibwe. The phrase "timber n\*\*ger" was one of the most popular phrases used. Several other racial slurs and racist comments were said to Native people in the state at that time. Resource rape! was something often put on signs that protesters would hold. Many Ojibwe and other Native people were injured physically and mentally. More than 200 people were arrested (Ina). Many non-Native people brought weapons, such as rocks, ball bearings, guns, and bombs (Ina). They have no way to determine the exact number of Native people that

were injured because there were bomb threats in the schools and non-Native students made racist t-shirts to wear (Leary 55). They would graffiti harmful phrases and vandalized vehicles (Leary 50), and they do not know how many people saw these messages. A majority of the time the police did not do much to protect the Ojibwe and allowed the abuse to continue. The police did very little to protect the Ojibwe during the initial protests. In 1989, over 200 non-Natives were arrested, but the taunts and racial remarks in 1990 were just as derogatory as ever (Ina).

Some of the main non-Native protest groups at this time were Protect Americans Rights and Resources (PARR), Stop Treaty Abuse (STA), and Wisconsin Alliance for Rights and Resources (WARR). These organizations and leaders rallied frequently in the mid-1980's, blaming the Native people and the "unequal treaty rights" for destroying natural resources and damaging the economy by taking too many fish. Even though Judge Crabb, a U.S. District court judge who issued an injunction against protesters which made it a federal crime to interfere with the cultural practice of spearfishing (Worthington), "deemed it unnecessary to determine a specific allocation of resources because the state was unable to demonstrate that scarcity existed." Judge Crabb also said that "so long as a resource is abundant for treaty and non-treaty harvesters alike, there is no need to limit the tribes to use the moderate living standard" (Leary 59-60).

During this time period in 1987, Dean Crist, a pizza parlor owner in Minocqua, created Treaty Beer. He also founded Stop Treaty Abuse (STA), one of the groups protesting the fishing wars. He created the STA to have a more action-oriented

alternative to PARR, another protesting group. Crist stated, "I watched the PARR for years, even supported them with pizza and beer, but I saw they were not able to find their butt with both hands" (Leary 91). After Crist founded the STA, he created his Treaty Beer. The Treaty Beer was used to get donations for anti-spearfishing activities. Treaty Beer was marketed as the "True brew of the working man." The slogan for Treaty Beer was "Treaty Beer, tastes bitter, hard to swallow" (Leary 92). Many bars and bait shops in northern Wisconsin sold the Treaty Beer. "During the time that Crist sold the beer, he hoped to use the sales to demonstrate political clout for anti-Indian legislation in Wisconsin and elsewhere" (Leary 92). Supporters of the Treaty rights petitioned for bars in some states to not serve this beer, and they boycotted other bars that served the beer. These acts led to Crist abandoning his project and beer (Leary 92). During the time of the beer, critics called the beer "Racism in a can" (Leary 92). Based on ignorance and misunderstanding of treaty rights and racism, these non-Native people would do anything to stop this "unfair act."

Also during the time of the fishing wars and protests, the Ojibwe Nations in the Midwest got together and created the Great Lakes Indian Fish and Wildlife Commission (GLIFWC). The GLIFWC, created in 1984 by eleven Ojibwe nations in Wisconsin, Michigan, and Minnesota, helps its member bands to protect their treaty rights and natural resources by not taking more than the ecosystem can recover. They provide natural resource management, conservation enforcement, legal and policy analysis, and public information services, as well as work towards educating the community about their efforts to protect the environment. The GLIFWC is made up of a representative

from each of the member tribes: Mille Lacs, Fond du Lac, Danbury, Bad River, Lac Du Flambeau, Mole Lake/ Sokaogon, Lac Courte Oreilles, Keweenaw, Lac Vieux Desert, Bay Mills, and Red Cliff (GILFWC). The GILFWC has two other committees: 1) the Voigt Intertribal task force, which makes decisions and recommendations regarding the management of the fishery inland lakes and the wild game and wild plants in the 1837 and 1842 treaty-ceded territories and 2) the Lakes Committee, which addresses matters pertaining to the management of the Lake Superior fishery and related issues. The GLIFWC's main office is now located on the Bad River reservation, and they maintain about sixty full time staff regularly to help with these issues year round, but they add temporary personnel during the spearing and netting seasons (GLIFWC).

To ensure the safety of the fish every year by March 15, the six Wisconsin Ojibwe tribes declare a percentage of the safe harvest to be taken from certain lakes during the year. "Since 1989 the number of walleye being declared or tribal quota has ranged from 38,000-54,000 in 178-420 different lakes" (U.S Department of the Interior 10). The tribes do typically allow 100% of the quota to be used. The bag limit for lakes without a tribal declaration is five per day, and the bag limits for lakes with tribal declaration is two per day. If a lake has more than 60% percent of the safe harvest for two years, then the third year they do not fish in that lake. On average from spearfishing the Ojibwe people only took 2% of the walleye and .5% of the Muskie (Kelh 15)

The Fishing Wars were due to misunderstanding, racism, and ignorance of the non-Native people, so the need for better education was clear. The Lac Courte Oreilles Ojibwe created a group that examined the relationship between Natives and

non-Natives (Leary 87). Their report called on the Department of Education and the American Indian Language and Culture Education Board to create legislation and curriculum focusing on Wisconsin Indian history in hopes that, with better education, the conflicts would resolve. The American Indian Language and Culture Education Board drafted a resolution requiring the teaching of Wisconsin Indian history, culture, and sovereignty. This legislation would later be called Act 31. In 1989-1991, the state budget allowed for the creation of an American Indian Studies program that would help with the implementation of Act 31 in the schools.

Alan Caldwell, an enrolled member of the Menominee Nation, who was working for the Department of Public Instruction during that period, created Act 31 (A, Funded By, et al. ). He had a short amount of time to create a plan for better educating the students and teachers in Wisconsin. In the hurry to create this new plan, he forgot to include consequences for schools or teachers who do not follow Act 31. In 1989, state Legislators passed statute Act 31 to infuse Native American studies into public education. Since then, Wisconsin K-12 programs are required to teach the history, culture, and tribal sovereignty of the eleven federally recognized tribes in Wisconsin: the Lac Courte Oreilles Ojibwe, Bad River Ojibwe, Lac du Flambeau Ojibwe, Potawatomi, Ho-Chunk, Menominee, Oneida, Red Cliff Ojibwe, Sokaogon Ojibwe, St. Croix Ojibwe, and Stockbridge-Munsee. Wisconsin schools are required to teach about Native tribes, treaty rights, and tribal sovereignty in fourth grade, eighth grade, and again in high school. Since 1991, anyone who wants a teaching license in the state of Wisconsin must be educated about the Native tribes, their treaty rights, and tribal



sovereignty. The leaders of Act 31 have been Alan Caldwell, JP Leary, and David O'Connor, who have all worked for the Department of Public Instruction in Wisconsin ("JP Leary Believes...").

The Ojibwe people had a major conflict with non-Native people over their rights, and this is what set off the Fishing Wars. They are resolving the conflict with better education, known as Act 31. The Ojibwe people still receive backlash and trauma from these events. Even though Act 31 was passed in 1991, there are people who did not receive this education and are still ignorant. There are also schools that do not fully understand or teach about the tribes in Wisconsin so misunderstanding continues. Education is the most important key to healing this conflict over Ojibwe rights. We must learn our history as a whole and not just pieces so we can see the whole puzzle. Learning about all helps us fit together and live in peace.

## Annotated Bibliography

### Primary

A, Funded By, et al.

This e-book had letters written by Allen Caldwell. This book was helpful because it was really interesting to hear and read what Allen had to say, especially because Allen Caldwell is no longer with us.

Allegretti, Dan. "Spearing —1842 vs. 1986." *The Capital Times*, 23 Apr. 1986.

This newspaper article talked a lot about the importance of spearfishing. It was also written during the time of the controversy. This is really amazing because I do not have exact dates that some of the protests happened and cannot find the articles.

"American Indian Studies Program." Wisconsin Department of Public Instruction, 7 Feb. 2018, [dpi.wi.gov/amind](http://dpi.wi.gov/amind).

This website is the website for Act 31 and DPI. This was the first place I went to for information about Act 31. It is a really great website to learn about it and what it does.

"Crossing the Line: Tribble Brothers." YouTube, YouTube, 27 Oct. 2016, [m.youtube.com/watch?v=KSpEGhWR44Q](https://m.youtube.com/watch?v=KSpEGhWR44Q).

This video was helpful. It had the Tribble brothers talk about their experience. It was really powerful to hear the Tribble brothers talk about their experience and to hear it from their perspective.

"1837 Treaty." *1837 Treaty with the Chippewa*: Minnesota DNR, [www.dnr.state.mn.us/aboutdnr/laws\\_treaties/1837/index.html](http://www.dnr.state.mn.us/aboutdnr/laws_treaties/1837/index.html).

This website article showed me the entire treaty of 1837. I had seen it before, but it explained it more in depth. It also kind of talked about what led up to the treaties being signed.

Gedicks, Al. *The New Resource Wars: Native and Environmental Struggles against Multinational Corporations*. Black Rose Books, 1994.

This book mainly confirmed what I knew about the fishing wars. It was interesting, but it had the exact same information as some other sources.

Ina, Lauren. "Wisconsin Fights Annual Fishing War." *Washington Post*, 24 Apr. 1990.

This article was written by a non-Native person, but it was written during the time period. It give a lot of the opposing viewpoints because the author was white.

“JP Leary Believes in the Importance of Teaching American Indian Studies Across the Curriculum.” *Wisconsin First Nations*, 5 Nov. 2017, [wisconsinfirstnations.org/jp-leary-believes-importance-teaching-american-indian-studies-across-curriculum/](http://wisconsinfirstnations.org/jp-leary-believes-importance-teaching-american-indian-studies-across-curriculum/).

This website and video helped me understand Act 31 better and helped confirm a lot of the information I had. I also loved that JP, one of the people who was the head of Act 31 at one point, talked about it.

Kehl, Tim. “Take No More from the Indians.” *The County Today* [Madison Wi], 2 Dec. 1987, p. 15.

This editorial written by Tim Kehl talks about some of the statistics about the fish taken by the Ojibwe people. Also, it discusses how they needed to stop taking more from them when they have lost so much.

Leary, JP. *The Story of Act 31*. Vol. 1, 2018.

This book is not yet published. I asked JP, the author of this book, if could get an early copy, and he sent me the manuscript of the whole book. The title is about Act 31, but it has so much more than that it covered the fishing wars and content about the treaties.

Loew, Patty, et al. *Indian Nations of Wisconsin Histories of Endurance and Renewal*, 2nd Edition. Wisconsin Historical Society Press, 2013.

This book confirmed what I knew from previous research. It also talked about the effect the fishing wars and the protests and hatred had on the Indigenous people.

Nesper, Larry. *The Walleye War: the Struggle for Ojibwe Spearfishing and Treaty Rights*. University of Nebraska Press, 2002.

This book talked about the fishing wars more than anything. It talked a lot about the protests and how they happened. It also gave me a better perspective on the different sides of the protesters.

“Ojibwe Spearfishing Controversy.” YouTube, YouTube, 27 July 2014, [m.youtube.com/watch?v=QovhSVEDGEY](https://m.youtube.com/watch?v=QovhSVEDGEY). Productions, Lanmax, director. Ojibwe Spearfishing Controversy . 27 July 2014.

This video also showed how violent things could get. It showed protesters and gunshots and explained a lot. It had videos and pictures of the protests from the time period of the fishing wars.

Satz, Ronald N. *Chippewa Treaty Rights: the Reserved Rights of Wisconsin's Chippewa Indians in Historical Perspective*. University of Wisconsin Press, 1997.

This book was really helpful. It helped support most of my other information. It also gave me new information too; it talked about treaty rights more in-depth than other resources.

“Spear Fishing Treaty Rights.” Chippepedia, Spear Fishing Treaty Rights.

This was one of the first websites I read about my topic, so it gave me a lot of information about the treaties. Most of the information was confirmed later on.

Walter Bresette | Treaty Rights and Sovereignty. Wisconsin Educational Communications Board and University of Wisconsin Extension. 2018. Wisconsin Public Television. [wimedialab.org/biographies/bresette.html](http://wimedialab.org/biographies/bresette.html).

This video was the first thing I watched. It did a really good job of explaining the treaties. It also did a good explaining the rights the Ojibwe maintained. This video was really helpful.

Worthington, Rogers. "Year of Change Calms Water in Spearing-Rights Dispute." *Janesville Gazette*. 14 April 1991.

This newspaper article talked about Judge Crabb and gave me the information that I needed. It was written during the time period by a non-Native person, so it gives a little of the other perspective too.

## **Secondary**

Association, Wisconsin Tribal Judges. “Frequently Asked Questions.” Frequently Asked Questions of Wisconsin Tribal Judges Association, [www.wtja.org/faqs.php](http://www.wtja.org/faqs.php).

This website gave me all of the federally recognized tribes in Wisconsin. I knew most of the tribes, but this website gave me the ones I did not know.

Bing, director. *Spearfishing Protests*. 15 Feb. 2012.

This video really showed some of the violence that went on. It also shows how verbal the conflict could get. There was some harsh language in the video, and it was real video from the fishing wars.

Erickson, Sue. *Ojibwe Treaty Rights: Understanding & Impact*. Great Lakes Indian Fish & Wildlife Commission, 2008.

This book was helpful because it was written by the Great Lakes Indian Fish and Wildlife Commission. Even though it was written by them, it talked more about the fishing wars and how it helped make their organization.

Finkelmeyer, Jeff. "Event to Spotlight 25th Anniversary of Act 31, American Indian Curriculum." *School of Education News*. University of Wisconsin-Madison. 13 Aug. 2014, [education.wisc.edu/soe/news-events/news/2014/08/13/event-to-spotlight-25th-anniversary-of-act-31--american-indian-curriculum](http://education.wisc.edu/soe/news-events/news/2014/08/13/event-to-spotlight-25th-anniversary-of-act-31--american-indian-curriculum).

This website gave me a lot of dates and helped me gather and confirm information on Act 31.

*Fishery Status Update in the Wisconsin Treaty Ceded Waters*. Vol. 5th, U.S. Dept. of the Interior, Bureau of Indian Affairs, 2010.

This book showed me the numbers about spearfishing. It showed me how many fish were being taken and how large a harvest the ecosystem could handle and then the amounts people had taken.

Gedicks, Al. *Resource Rebels: Native Challenges to Mining and Oil Corporations*. South End Press, 2001.

This book talked more about the effect the fishing wars had on the Ojibwe people. It also talked a little about the treaties.

GLIFWC, director. Spearfishing Protests. Bing, Microsoft, 15 Feb. 2012.

This video showed a lot about what happened and explained the treaties a lot. It also showed video clips from some of the protests. It also talks about some of the violence and the harsh things said.

Hastings, Tom H. "Hastings on Nonviolence." *The Anishinabe and an Unsung Nonviolent Victory in Late Twentieth-Century Wisconsin*, 1 Jan. 1970, [hastingsnonviolence.blogspot.com/2010/11/anishinabe-and-unsung-nonviolent.html](http://hastingsnonviolence.blogspot.com/2010/11/anishinabe-and-unsung-nonviolent.html).

This website did a really good job of talking about the Battle at Butternut Lake. It talked about how bad the protests were and how violent it got.

Marchel, Mary Ann. *Before We Teach It We Have to Learn It*. 2013.

This book talked a lot about Act 31. It talked about what it does and why we have it. It is was a great resource if someone does not know about Act 31.

Moody, Heather Ann, and Dr Mary Ann Marchel. Proquest LLC, 2014.

This ebook helped me on Act 31. It taught me not just about Act 31 but other ways people are being educated.

“Resources for Teaching American Indian Studies.” *Wisconsin First Nations*, Wisconsin Department of Public Instruction-American Indian Studies, Wisconsin Public Television and the University of Wisconsin-School of Education. 2017, [wisconsinfirstnations.org/](http://wisconsinfirstnations.org/).

This website talked a lot about Act 31. It talked about the struggles native people had. It was a great place to learn to understand native people more if you don't know.

*Restoration*. Great Lakes. 2012.

This book gave an update on what is going on now. It talks about how everything is recovering and how the tribes are restoring the lakes.

Roberts, Kathleen. *Hocak Worak*. 29 Aug. 2014.

This newspaper article from the Ho-Chunk newspaper talks about Act 31 and its anniversary. This article was helpful in recapping everything that happened and confirmed the information I had.

Seely, Ron. “Courts Have Upheld Compacts in Many Treaty Rights Cases.” *Wisconsin State Journal*. 1 Dec. 2012, [host.madison.com/wsj/news/local/environment/courts-have-upheld-compacts-in-many-treaty-rights-cases/article\\_293a7d66-3bdf-11e2-a417-001a4bcf887a.html](http://host.madison.com/wsj/news/local/environment/courts-have-upheld-compacts-in-many-treaty-rights-cases/article_293a7d66-3bdf-11e2-a417-001a4bcf887a.html).

This video and website talks a little about the treaties and fishing wars and about the protests too. It talks about the treaties and Fred and Mike it also talked about how everything happened.

“Spearfishing: A Living History.” *The Ways*. Wisconsin Educational Communications Board. 2018. [theways.org/story/spearfishing](http://theways.org/story/spearfishing).

This website and video talks about spearfishing now and how it affects the next generation of youth. It also talks about how important it is and how it ties into culture.

“25 Years After Spearfishing Ruling, Wisconsin Officials Say Walleye Fisheries Remain Strong.” *Pioneer Press*. Twin Cities, Twin Cities, 14 Nov. 2015, [www.twincities.com/2008/04/26/25-years-after-spearfishing-ruling-wisconsin-officials-say-walleye-fisheries-remain-strong/](http://www.twincities.com/2008/04/26/25-years-after-spearfishing-ruling-wisconsin-officials-say-walleye-fisheries-remain-strong/).

This article helped confirm information, as well as give me some new information about what is happening now and his things are still progressing.